

Before The
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

COMPLAINT OF AMERICAN POSTAL WORKERS
UNION, AFL-CIO

Docket No. C2013-10

**UNITED STATES POSTAL SERVICE ANSWER IN OPPOSITION TO
MR. POPKIN'S NOTICE OF INTERVENTION
(September 26, 2013)**

On September 5, 2013, the Postal Regulatory Commission ("Commission") received a complaint filed by the American Postal Workers Union, AFL-CIO ("APWU"). On September 16, 2013, Mr. David Popkin submitted a letter in which he requested to intervene as a participant. Pursuant to 39 C.F.R. § 3001.20(d), the Postal Service files this opposition to Mr. Popkin's request. Mr. Popkin's request fails to satisfy 39 C.F.R. §§ 3001.17(a) and 3001.20(b) and as such, the Commission should deny Mr. Popkin's request.

Mr. Popkin's request to intervene is premature as the Commission has not yet issued notice for the proceeding. The Commission's Rules of Practice provide that a "notice of intervention will be entertained in those cases that are noticed for a proceeding pursuant to section 3001.17(a)." 39 C.F.R. §3001.20(a). Here, the Commission has not issued a notice of proceeding pursuant to Rule 17(a). Rather, the Commission has merely docketed the APWU's complaint. The Postal Service has not been served with a notice of proceeding nor has a notice of proceeding been published in the Federal Register as required by Rule 17(b). Since the Commission has not issued a notice of

proceeding, any notice of intervention would be premature, pursuant to Rule 20(a).

Even assuming that the Commission may entertain a notice of intervention, Mr. Popkin's request fails to satisfy the requirements of Rule 20(b). The Commission's Rules of Practice require a notice of intervention to "clearly and concisely set forth the nature and extent of the intervenor's interest in the issues to be decided." 39 C.F.R. §3001.20(b). Furthermore, a notice of intervention shall include:

"the classification of postal service utilized by the intervenor giving rise to his/her interest in the proceeding, and to the extent known, the position of the intervenor with regard to the proposed changes in postal rates, fees, classifications, or services, or the subject matter of the complaint."

Id. Additionally, the notice of intervention "shall state whether or not the intervenor requests a hearing or in lieu thereof, a conference, and whether or not the intervenor intends to actively participate in a hearing." Id.

Here, Mr. Popkin's letter contains a single sentence that merely requests to intervene as a participant in the complaint. His letter contains no statement that sets forth the nature or extent of his interest in the issues decided. Mr. Popkins provides neither a description of the postal service he utilizes nor a statement of his position on the subject matter of the complaint. Furthermore, Mr. Popkin lacks standing to intervene as his letter fails to allege that he has suffered any injury caused by actions or inactions of the Postal Service for which the Commission can issue a remedy through its complaint process. Ultimately,

Mr. Popkin's letter fails to satisfy the requirements of Rule 20(b) and, thus, the Commission should deny Mr. Popkin's request.

Since the Commission has not issued a notice of proceeding pursuant to Rule 17(a), any notice of intervention would be premature. Even assuming that a notice of intervention would not be premature, Mr. Popkin's letter, which contains a single statement requesting to intervene in this complaint, fails to satisfy the requirements of Rule 20(b). As such, the Commission should deny Mr. Popkin's request to intervene.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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September 26, 2013